



Appeal Decisions

Site visit made on 11 July 2019

by R J Maile BSc FRICS

an Inspector appointed by the Secretary of State

Decision date: 30 July 2019

Appeal Ref: APP/G5180/D/19/3228921

Kinross, North End Lane, Downe, Orpington, Kent, BR6 7HQ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Bill Harris against the decision of the Council of the London Borough of Bromley.
 - The application ref: DC/19/00619/FULL6, dated 5 February 2019, was refused by notice dated 5 April 2019.
 - The development proposed was originally described as "Retention of a garden building."
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Decision

1. The appeal is allowed and planning permission is granted for a garden building at Kinross, North End Lane, Downe, Orpington, Kent, BR6 7HQ, in accordance with the terms of the application ref: DC/19/00619/FULL6, dated 5 February 2019, subject to the following conditions:
 - 1) The garden building hereby permitted shall not be occupied at any time other than for purposes incidental to the residential use of the dwelling known as Kinross, North End Lane, Downe, Orpington, Kent, BR6 7HQ.
 - 2) The external surfaces of the development hereby permitted shall be constructed in the materials specified at section 5 of the application form
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: NEL-967-RB-PD-01, NEL-967-RB-PD-01-PD.

Procedural Matter

2. The description of development in the heading above has been taken from the planning application form. However, retention is not an act of development. I have therefore amended the description of development in my formal decision to reflect this.

Main Issues

3. The main issues in this case are:
 - 1) Whether the proposal would be inappropriate development within the Green Belt for the purposes of national policy and the policies of the Development Plan.

- b) The effect of the development upon the openness of the Green Belt and the purposes of including land in it.
- c) The impact of the development upon the character and appearance of the surrounding area.
- d) If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

a) Whether inappropriate development.

- 4. Kinross comprises a detached bungalow, being sited at the northern extremity of a ribbon of dwellings fronting the east side of North End Lane. There is open countryside opposite and to the north of the property. The dwelling is located to the north of the village of Downe within largely open countryside that forms part of the designated Metropolitan Green Belt.
- 5. National policy at Chapter 13 (Protecting Green Belt land) of the Framework¹ states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (see paragraph 143). Paragraph 145 further states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Nevertheless, certain exceptions are permitted. Amongst these is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces (paragraph 145 d)).
- 6. Policy 7.16 of The London Plan² states that the strongest protection should be given to London's Green Belt in accordance with national guidance.
- 7. Policy 49 of the Council's recently adopted Local Plan³ largely mirrors national policy at paragraph 145 of the Framework. Policy 51 relates specifically to extensions or alterations to dwellings in the Green Belt, including outbuildings that are to be sited within 5m of the existing dwellinghouse. Importantly, it states that other development within the curtilage is inappropriate by definition and would only be permitted where very special circumstances have been demonstrated. That proviso applies to the garden building the subject of this appeal, which is located more than 10m from the main dwelling.
- 8. At the time of my site visit the main timber frame structure of the replacement garden building had been erected, although works to clad the main walls and roof remain to be completed. The building that I observed is much larger than the garage that previously existed on site, as indicated on the drawings which accompanied the planning application.
- 9. The previous garage had a floor area of some 30.6m². This compares with the structure as erected, which has a similar width to the original but is some 7m greater in depth, having a floor area of 66.3m².

¹ The National Planning Policy Framework (February 2019).

² The London Plan – The Spatial Development Strategy for London Consolidated with Alterations since 2011 (March 2016).

³ London Borough of Bromley Local Development Framework: Local Plan (January 2019).

10. I understand that in addition to the garage there was also a summerhouse to the rear that has been demolished. I have no details relating to its status or dimensions, although photographs have been produced indicating that such a structure previously existed.
11. Of necessity, my decision on this issue must be based upon the increased size of the new garden building by reference to the only information available to me relating to the floor area of the original garage.
12. The garden building is materially larger than the garage it replaces, such that it would not qualify as an exception by reference to paragraph 145 d) of the Framework. It is also sited more than 10m from the main dwelling, thereby rendering it in conflict with Policy 51 of the Local Plan.
13. For these reasons, I find upon the first main issue that the proposal would be inappropriate development for the purposes of national policy and the policies of the Development Plan.

b) Effect upon openness of Green Belt.

14. The garden building is set well back from the road and, as referred to above, it is of a similar width to the garage that previously existed. The use of a low pitched roof as compared to the earlier flat roof would be of little consequence in terms of its impact upon openness, having regard to its siting towards the rear of the plot.
15. The increased depth of the structure would not be appreciated as viewed from the public domain, while the north flank elevation of the new building would be almost entirely screened in views from the open field beyond by a mature, mixed species hedge.
16. These factors, in combination, have led me to find upon the second main issue that the replacement garden building would not have a harmful effect upon the openness of the Green Belt or the purposes of including land in it, as required by national policy at Chapter 13 of the Framework.

c) Impact upon character and appearance.

17. I have noted the comments in the Officer's Report that the form, scale, siting and proposed materials of the garden building would complement the host property and would not appear out of character with surrounding development. I agree with that assessment. Furthermore, the use of a pitched roof would be more appropriate in terms of its relationship with the host dwelling.
18. I have therefore found upon the third main issue that development as proposed would not have a detrimental impact upon the character and appearance of the surrounding area and would accord with the design aims of national policy at Chapter 12 of the Framework, Policy 7.6 of The London Plan and Policies 6 and 37 of the Local Plan.

d) Other considerations.

19. I have seen the correspondence between the Council and the appellant's agent relating to the replacement garden building.

20. The newly erected structure is located some 1.049m from the north boundary of the curtilage of Kinross. It also exceeds 2.5m in height. However, had the garden building been erected 2m from the boundary it would have comprised Permitted Development under Class E of Schedule 2, Part 1 of the GPDO⁴.
21. The building is largely screened from the public domain by the mature hedge, which will remain, whilst the use of a low pitched as against a flat roof is more aesthetically pleasing.

Green Belt Balancing Exercise

22. I have found above that the proposal is inappropriate development within the Green Belt. This, by definition, is harmful to the Green Belt and should not be allowed except in very special circumstances.
23. The replacement garden building is of a superior design to the earlier structure on the site. It is set well back from the lane and is screened in views from the north by a mature, mixed species hedge.
24. Whilst the floor area of the new building exceeds that of the garage it replaces, had it been located less than 1m further away from the boundary it would have been lawful by virtue of Permitted Development rights. It seems to me wholly unnecessary to insist that it be taken down and moved such a relatively minor distance given my finding upon the second main issue that the garden building as currently sited is not harmful to the openness of the Green Belt. Moreover, for the reasons already given I am satisfied that it will not be damaging to the character and appearance of the surrounding area.
25. I find that the other considerations in this case clearly outweigh the harm that I have identified and that, looking at the case as a whole, I consider that very special circumstances exist which justify the development.

Conditions

26. I have considered the four conditions put forward by the Council against the tests of the Framework and advice provided by the Planning Practice Guidance.
27. The development has already commenced by virtue of the construction of the timber frame of the garden building. Therefore, suggested Condition 1 is not necessary.
28. The proposed materials and finishes are set out at section 5 of the application form. I consider them to be satisfactory, such that suggested Condition 2 (use of materials to match the existing building) as sought by the Council is not appropriate. I have elected to impose an amended Condition 2, given that the development is not yet complete. My reasons for the conditions are:
29. Condition 1 restricts use of the garden building to purposes incidental to the residential use of the main dwelling to prevent an unacceptable change of use that would be harmful to the visual amenities of the Green Belt. Condition 2 will ensure a satisfactory appearance to the completed development in the interests of the visual amenities of the area.
30. Condition 3, which requires the development to be carried out in accordance with the approved plans, provides certainty.

⁴ The Town and Country Planning (General Permitted Development) (England) Order 2015.

Conclusion

31. For the reasons given above, I conclude that the appeal should be allowed.

R. J. Maile

INSPECTOR